

**THE HIGH COURT OF TRIPURA
AGARTALA**

LA APPEAL NO.51 OF 2008

The Commandant,
BRO-755, BRTF(GREF),
C/O, 99 APO, Badharghat,
Agartala, Tripura West.

..... Appellant

- *Vs* -

1. Sri Pradip Majumder,
S/O Late narendra Majumder,

2. Smti. Mamata Majumder,
D/O Late Narendra Majumder,

3. Smti. Sujata Majumder,
D/O Late Narendra Majumder,

4. Smti. Rita Majumder,
D/O Late Narendra Majumder,

All are residents of
Village-Lankamura,
P.O. & P.S. Agartala Airport,
District-West Tripura.

..... Respondents

5. The L.A. Collector,
West Tripura, Agartala.

..... Proforma respondent

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the appellant : Mr. B. Majumder, CGC

For the respondents : None

Date of hearing and
delivery of
Judgment & order : **04.07.2015**

Whether Fit for Reporting :	<table><tr><td>Yes</td><td>No</td></tr><tr><td></td><td>√</td></tr></table>	Yes	No		√
Yes	No				
	√				

JUDGMENT & ORDER(ORAL)

This appeal under Section 54 of the Land Acquisition Act, 1894 is directed against judgment and award dated 03.01.2008 passed by learned L.A. Judge, West Tripura, Agartala, Court No.3, in case No. Misc. L.A. 30 of 2006.

2. Heard learned CGC, Mr. B. Majumder for the appellant. No representation on behalf of the respondents.

3. For Indo-Bangladesh border fencing, land measuring 2.66 acres at Mouja Lankamura was acquired by Notification of the Government of Tripura dated 28.11.2003 which consists land measuring 0.06 acres tilla(viti) class of land recorded in Khatian No.692, Plot No.531/P belonged to the respondents(claimants) and L.A. Collector in due course determined compensation @₹50,000/(rupees fifty thousand) per kani. The claimant-respondents received the compensation under protest on the ground that the compensation awarded was inadequate and not at par with the market price. They prayed for referring it to the L.A. Judge for determination of actual market price on the date of acquisition. Accordingly, the L.A. Collector made the reference and the reference was registered as case No.Misc.(L.A.) 30 of 2006.

4. In the course of hearing before L.A. Judge, the referring claimants submitted their claim statement and the respondents, *i.e.*

the present appellant also submitted their written objection. Both also adduced oral and documentary evidence.

5. Learned L.A. Judge taking into consideration a previous judgment in a L.A. Reference awarded compensation @₹1,00,000/- (rupees one lakh) per kani by impugned judgment dated 03.01.2008.

Aggrieved, the present appeal is filed by the requiring Department, *i.e.* the present appellant.

6. It is argued by learned CGC, Mr. Majumder that though in the deposition of PW1, four items of documents have been mentioned, marked as *exhibits*, but practically in the record, those were not marked by the Court and hence in view of the provisions contained in Order XIII Rule 4 of CPC those documents should not have been read in evidence for determination of the compensation. He has also submitted that all the documents presented on behalf of the claimants were photocopies and the photocopies were not admissible in evidence.

7. On perusal of the L.C. records, I find that on behalf of the claimants, one Pradip Majumder, who is arrayed as respondent No.1 in this appeal, was examined as PW1 and in course of his examination three sale deeds and a copy of judgment passed in Misc.(L.A.)5 of 1999 and Misc.(L.A.)6 of 1999 were exhibited as

exhibit-1 series, 2 series, 3 series and 4 series. Though in the statement of the witness, the learned L.A. Judge recorded that those documents have been exhibited but there is no endorsement of *exhibit* marks on those documents which are found in records and all those documents are photocopies. Similarly, the respondent, *i.e.* the L.A. Collector who is arrayed as respondent No.5 in the present appeal also examined one witness and exhibited five items of documents. Those are also photocopies and not in original. It was a defect on the part of the L.A. Judge that the endorsement of *exhibit* marks was not given on the body of the documents.

8. No objection raised on behalf of the opposite party-respondents at the time of recording evidence that those documents should not have been exhibited. For mere failure of the learned L.A. Judge in not marking the documents which are on record, I think remanding of the case again to the lower Court will serve no fruitful purpose; rather the litigation will linger. The concerned document is a common judgment passed in Misc.(L.A.) Case No.5 of 1999 and Misc.(L.A.) Case No.6 of 1999 and it is not disputed that no such judgment was passed. That judgment relates to acquisition of land at Mouja Lankamura, *i.e.* under same Mouja and it was also for *viti* class of land. The present acquired land is also *viti(tilla)* class of land. So, while the classification of land is almost same and of same mouja and in one case the L.A. Judge awarded compensation @₹1,00,000/-(rupees one lakh) per kani in the present impugned judgment the learned L.A. Judge awarded

compensation @₹1,00,000/-(rupees one lakh) per kani relying on that earlier decision. I, therefore, find no serious infirmity in the judgment passed by the learned L.A. Judge and hence I think there should be no interference by this Court in the award made by L.A. Judge for the technical default.

9. The appeal accordingly stands dismissed.

10. Send back the L.C. records along with a copy of this judgment.

JUDGE

